

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

**CINDY KAY LORENZ and DAVID
BRYAN LORENZ,**

Plaintiffs,

v.

**DEUTSCHE BANK NATIONAL TRUST
COMPANY, as Trustee for MORGAN
STANLEY ABS CAPITAL INC. TRUST
2006-HE4, et al.,**

Defendants.

Case No. 3:15-cv-00680-SI

ORDER

Michael H. Simon, District Judge.

The Court has reviewed Plaintiffs' Notice of Appeal for Relief from Stay Regarding Bankruptcy Appeal (Dkt. 15), Plaintiffs' First Amended Complaint (Dkt. 17), Plaintiffs' Renewed Motion for Temporary Restraining Order (Dkt. 20), Defendant Deutsche Bank's Objection to Plaintiff's Motion for TRO (Dkt. 21), and the Declaration of Robert E. Maloney in Support of Deutsche Bank's Objection (Dkt. 22). The Court construes Plaintiffs' Notice of Appeal for Relief from Stay Regarding Bankruptcy Appeal as seeking, in essence, the same relief that is sought in Plaintiffs' Renewed Motion for Temporary Restraining Order, and the Court will consider them together.

In addition, in Plaintiffs' Renewed Motion for Temporary Restraining Order, Plaintiffs ask the Court to consider their request in light of the putative class action lawsuit in the case of *Paulson v. Fairway America Corp., et al.*, Case No. 1:14-cv-1544-CL (D. Or.), which is currently on appeal before the U.S. Court of Appeals for the Ninth Circuit. The Court has done

so. Specifically, the Court has read U.S. District Judge Panner's Order dated February 11, 2015, adopting the Report and Recommendation of U.S. Magistrate Judge Clarke and dismissing Mr. Paulson's lawsuit with prejudice. The Court notes that the Ninth Circuit has not yet issued its decision in that appeal.

Concerning Plaintiffs' Renewed Motion for Temporary Restraining Order, in order to show that a plaintiff is entitled to a temporary restraining order or other preliminary injunctive relief, a plaintiff must show, among other things, either that he or she is likely to succeed on the merits, *Winter v. Natural Resources Defense Council*, 555 U.S. 7, 22 (2008), or, alternatively, that there are serious questions going to the merits. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-32 (9th Cir. 2011). Based on the record herein, Plaintiffs have failed to make either showing.

Plaintiffs' Renewed Motion for Temporary Restraining Order (Dkt. 20) is DENIED. To the extent that Plaintiffs' Notice of Appeal for Relief from Stay Regarding Bankruptcy Appeal (Dkt. 15) is properly considered to be a motion for immediate relief, it is DENIED for the same reasons.

IT IS SO ORDERED.

Dated this 4th day of May, 2015.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge